COURT, U. S.

# In the Supreme Court

OF THE

## United States

OCTOBER TERM, 1973

**No. 73-1104**

THE HOOPA VALLEY TRIBE, *Petitioner*,

vs.

JESSIE SHORT, et al., and THE UNITED STATES,
*Respondents*.

**OBJECTION OF RESPONDENTS JESSIE SHORT ET AL. TO MOTION OF SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY OF THE SALT RIVER INDIAN RESERVATION, ARIZONA, FOR LEAVE TO FILE STATEMENT AMICUS IN SUPPORT OF PETITION OF HOOPA VALLEY TRIBE OF INDIANS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS**

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February, 1974

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The Salt River Pima-Maricopa Indian Community of the Salt River Reservation in Arizona has moved for leave to file a statement in support of the Petition

of the Hoopa Valley Tribe for a Writ of Certiorari to the United States Court of Claims.

The consent of Respondents Jessie Short et al. to the filing of the proposed statement was never even requested. However, Respondents oppose the motion for leave to file the statement inasmuch as neither the motion nor the proposed statement sets forth any valid reason why the filing of the statement would be appropriate to protect any interest of the moving party or would be of any assistance to this Court.

Moreover, the motion fails to comply with Rule 42 of this Court in that it fails to set forth any facts or questions of law that have not been presented by the parties or any reasons for believing that any facts or questions of law will not adequately be presented by the parties.

Both the motion and the proposed statement reveal a complete lack of comprehension of the nature and scope of the decision of the Court of Claims in *Short et al. v. The United States.*

The decision of the Court of Claims is grounded upon the interpretation of the Act of April 8, 1864, 13 Stat. 39 and the Executive Action implementing the Congressional purpose expressed in the statute. This statute was a unique one for the purpose of providing permanent reservations for all of the Indians in the State of California. It has no counterpart applicable to any other State. For this reason alone the decision of the Court of Claims can have no possible bearing on any interests of tribes on a reservation in the State of Arizona.

The moving party asserts that it fears that the decision of the Court of Claims will precipitate a flood of unjust and ill-founded claims upon the property of their reservation by neighboring, off-reservation, or other landless Indians and that the decision sanctions the exploitation of ancestral Indian lands by third and fourth generation off-reservation Indians. The decision of the Court of Claims has no such effect or import. Every one of the sample Indian plaintiffs who the Court of Claims has held are entitled to an equal share in the benefits of the entire Hoopa Valley Reservation were born on the Reservation, have resided there, and either they or their parents were listed on the rolls of the Hoopa Valley Reservation during the years that the Government maintained rolls alphabetically listing all of the Indians recognized as having rights on the Reservation. The Court of Claims has further found as a fact that half of the portion of the Hoopa Valley Reservation to which the organization known as the Hoopa Valley Tribe claims exclusive rights constituted ancestral lands of the Yurok, not the Hoopa Tribe.

It is asserted in the proposed statement that the decision of the Court of Claims poses a threat to the moving party because it departs from established law that membership in an Indian tribe is to be determined by the Tribe itself subject to the approval of the Secretary of the Interior, or the Congress. This the decision of the Court of Claims does not do. The Court has merely exercised the wholly proper and necessary judicial function of determining what

Indians are entitled to share in the benefits of a Reservation by virtue of the Act of Congress authorizing the establishment of the Reservation and the Executive action implementing the Congressional purpose.

The proposed statement says that the Indians of the Salt River Reservation in Arizona are predominantly Indians of the Pima and Maricopa Tribes. The action which the Court of Claims has held to be wrongful in respect to the Hoopa Valley Reservation in California would be comparable to a situation where some Pima Indians formed an organization to obtain for themselves alone a major portion of the Salt River Reservation to the exclusion of the Maricopa Indians and all other Indians of the Reservation. Had the decision of the Court of Claims been in favor of the organization known as Hoopa Valley Tribe it would have indeed imposed a threat to the Indians of the Salt River Reservation. The decision that has been rendered by the Court of Claims does not in any way affect any interest of the Indians of the Salt River Reservation.

## CONCLUSION

For all of the reasons stated, the motion of the Pima-Maricopa Indian Community of the Salt River Indian Reservation in Arizona to file a statement amicus in support of the Petition of the Hoopa Valley Tribe for a Writ of Certiorari to the Court of Claims should be denied.

Respectfully submitted,

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